

Exhibit 5

53. HTC denies any and all allegations directed against it in Plaintiff's Second Amended Verified Complaint not specifically answered hereinabove.

THIRD DEFENSE

54. Plaintiff has not sustained any damages as the result of any conduct, act, or omission on the part of HTC and accordingly is barred from recovery herein.

FOURTH DEFENSE

55. HTC gives notice that it intends to rely on the defenses that the subject software is in the public domain and/or abandonment of copyright.

FIFTH DEFENSE

56. HTC gives notice that it intends to rely upon the defense of independent creation, without reference to the subject software allegedly owned by Plaintiff.

SIXTH DEFENSE

57. HTC gives notice that it intends to rely upon the defense of Plaintiff's failure to comply with all applicable copyright laws.

SEVENTH DEFENSE

58. HTC gives notice that it intends to rely upon the defense of invalid, untimely, and/or otherwise deficient copyright registration.

EIGHTH DEFENSE

59. HTC gives notice that it intends to rely upon the defense of consent.

NINTH DEFENSE

60. HTC gives notice that it intends to rely upon the defenses of innocent intent and/or innocent infringement.

TENTH DEFENSE

61. HTC gives notice that it intends to rely upon the defenses that Plaintiff lacks standing and/or is not the real party in interest.

ELEVENTH DEFENSE

62. HTC gives notice that it intends to rely upon the defense that Plaintiff never acquired or has relinquished ownership of the work in question.

TWELFTH DEFENSE

63. HTC gives notice that it intends to rely upon the defense of failure to join indispensable parties.

THIRTEENTH DEFENSE

64. HTC gives notice that it intends to rely upon the defense of genericness.

FOURTEENTH DEFENSE

65. HTC gives notice that it intends to rely upon the defense of fair use.

FIFTEENTH DEFENSE

66. HTC gives notice that it intends to rely upon the defense of free speech and expression protected by the First Amendment to the United States Constitution and Article I, Section 4, of the Hawaii State Constitution.

SIXTEENTH DEFENSE

67. HTC gives notice that it intends to rely upon the defenses of lack of copyrightable subject matter and/or lack of sufficient originality.

SEVENTEENTH DEFENSE

68. HTC gives notice that it intends to rely upon the defenses of fraud, non-disclosure, copyright misuse, and/or inequitable conduct on the Copyright Office.

EIGHTEENTH DEFENSE

69. The claims alleged against HTC in the Second Amended Verified Complaint are barred in whole or in part because the alleged use of Plaintiff's software by other parties, if it occurred, was done pursuant to a valid license agreement and/or was authorized by Plaintiff.

NINETEENTH DEFENSE

70. The claims against HTC in the Second Amended Verified Complaint are barred because Plaintiff cannot demonstrate that HTC violated any of the exclusive rights enumerated under 17 U.S.C. § 106.